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CONGRESSIONAL SALARY LEGISLATION.

BY HUBERT BRUCE FULLER.

THE comparatively recent enactment of a Salary Law by Congress suggests one of the most interesting and fascinating subjects of legislation in our national career. Every previous attempt on the part of Congress to increase the salaries of its own members met rebuke, varying from quiet denunciation to veritable cyclones which swept the country, and in their destructive course visited utter annihilation upon some of the most promising national careers.

When the first Congress of the United States convened in New York in 1789, the question of salaries to be voted the various Federal officials proved one of the most perplexing of the many difficult problems which confronted the uninitiated. Before the question was brought to an issue, many of the more impecunious members had been reduced to the embarrassing necessity of negotiating loans from their friends. At length, a committee of the House of Representatives was named to frame a report and prepare recommendations upon the salaries for the President, Vice-President and members of Congress. This committee, following the usual trend of untried minds put to the solution of a novel task, looked about for some precedent to serve them as a guide. This precedent was the pay received by the members of the Congresses of the Confederation.

Under the Confederation, each State paid its own representatives in Congress and instructed and recalled them at pleasure. The compensation in all cases was based on the *per diem* theory and ranged from four dollars, paid by the smaller, to eight dollars provided by the more affluent, States.

Invoking the law of averages, the committee ascertained that the various States had paid their members approximately six

dollars and a half *per diem* for actual service. They, therefore, reported a bill providing for payment at six dollars *per diem*.

When the Salary Bill came up for discussion in the House, the Presidential salary was, naturally, first approached. All manner of theories, figures and methods of payment were suggested, but \$25,000 a year was finally voted; and, after heated debate, the salary of the Vice-President was fixed at \$5,000.

The committee reported in favor of six dollars a day for Senators and Representatives and double that amount for the Speaker of the House. The flood-gates of oratory were opened wide. The press ridiculed and stormed by turns. Amendments of every manner and description were offered. The opponents, chiefly anti-Federalists, frantically declared that the members of Congress would riot in profligacy, supporting indecent theatres, imbibing costly wines, and by their example of extravagance prevent other States from joining the Union.

Sedgwick, of Massachusetts, moved to amend and allow Senators six dollars *per diem* and Representatives five dollars. To his mind, this seemed more in harmony with the spirit manifested in the Constitution toward these two Houses. The Senate was more dignified in its personnel and required more ability, greater age and longer service than the House.

Richard Lee, of Virginia, seconded Sedgwick's appeal. He contemplated the Senate as a barrier between the Executive and the House of Representatives, shielding the people from the dangers of attack by an aspiring Magistracy, on the one hand, and, on the other hand, from being "desolated by the anarchy often generated by a time-servingness to veering popularity." He supported a distinction in favor of the Senators of two or three dollars a day. Madison commended this idea and Washington declared himself to be "clearly of opinion that there ought to be a difference in the wages of the members of the two Houses of the Legislature."

John Vining, of Delaware, opposed Lee's solution of the question, and declared with prophetic tone:

"When I consider the mode in which the Senate is elected, I apprehend we may have there men whose wealth has created them the influence necessary to get in. If anything is to be expected by this 'refined choice' it is that men of rank and opulence will draw the regard of the small and select circle of a State Legislature: while the Representatives in

this House, being the choice of the fellow citizens, among whom rank and dignity are rather unpopular, will consist of men of middling circumstances."

Then, as ever in the history of debate, clever wit proved a match for cold logic. Jackson, of Georgia, aroused a storm of applause by the query whether a Senator would eat more or drink more costly liquors than a member of the House. Although the theory of recompense for services rendered was recognized, yet the impression prevailed that any compensation should be only sufficient to meet the reasonable expenses of a member at the seat of Government. The expenses and duties of the members of both Houses were equal and the pay should be the same.

The statisticians of the House quoted long and complicated tables to show that, at the proposed rate, if a member were frugal, spurned the follies of the theatre and renounced fine liquors, he might perchance save £110: and this was to recompense him, if a professional man, for the loss of his client, or, if a merchant, for a great chasm in his business.

Some argued that, instead of giving the Speaker a *per diem* double that of the members, the rule of division rather than the multiplication table should have been invoked. They declared that his was the easiest berth in the House: he is never on a committee, never draws up a bill and never frames a measure.

At length the Salary Act was passed. The President was to receive \$25,000 a year, the Vice-President \$5,000, the members of both Houses a *per diem* of six dollars and the Speaker of the House twelve dollars *per diem*.

An interesting comparative table of salaries is suggested by the various Salary Acts of the first Congress. The Secretary of State and the Secretary of the Treasury were allowed a salary of \$3,500 each; the Secretary of War, \$3,000; the Attorney-General, \$1,500; the Comptroller of the Treasury, \$2,000; the Treasurer, \$2,000; the Auditor of the Treasury Department, \$1,500; the Registrar, \$1,250; the Governor of the Western Territory, \$2,000; the Assistant Secretary of the Treasury, \$1,500; the chief clerk of the Department of State, \$800; the chief clerk of the War Department, \$600. Clerks might be hired in the different departments of the Government at salaries not to exceed \$500 per annum. The Chief Justice of the Supreme Court was allowed an annual salary of \$4,000; the Associate Justice, \$3,500;

the Federal Judges received salaries ranging from \$800 a year, for the Judge of the District of Delaware, to \$1,800 each for the Judges of the Districts of Virginia and of South Carolina. By Acts of 1790 Ministers Plenipotentiary to Foreign Powers were to receive not more than \$9,000 a year as compensation for all personal services and other expenses. A Major-General in the army received \$166 a month; a Brigadier-General, \$104; the Quartermaster-General, \$100; and the Adjutant-General, \$75.

For one year, 1795, Senators received a *per diem* of seven dollars. In 1796, a bill was introduced providing an annual salary of \$1,000 for the members of both Houses, instead of the six dollars *per diem*. The supporters of this bill declared that the increase in the cost of living had been so marked since the enactment of the law of 1789 that six dollars was no longer a fair compensation. They argued for the annual salary feature that thereby the members might be inspired to greater despatch of public business.

On the other hand, it was fervently declared that the temptation to shorten the session would be so cogent as to occasion the neglect of vital interests of the nation: some feared that it would prevent sufficient debate, while one member declared that the proposed legislation would amount to a "bounty to neglect the business of the Legislature." So strong was the opposition to the salary feature that a substitute amendment was introduced providing for a *per diem* of eight dollars. However, the bill even in its amended form was defeated, and the Salary Bill of 1789 was re-enacted.

The Congress elected in the fall of 1814 had been chosen as a Congress of reform. National Bank legislation, a protective tariff and a score of other matters, of scarcely secondary importance, were demanded by the dissatisfied electorate. Congress had been in session three months, yet no apparent progress had been made on the issues of real importance.

Only seven bills had gone to the White House for Executive Approval. Why such inaction? The lay mind could not understand why 218 men, presumably chosen for their conspicuous ability, should dally six months, or more, each year over business which, with reasonable application, might be consummated in one-half that time. The *per diem* compensation was assumed to be the reason and suggested the remedy.

A Salary Act was framed by this "Reform Congress." It was entirely proper. Congressmen were still receiving the six dollars *per diem* established by the Salary Act of 1789. With the growth and development of the country a more costly manner of living had become imperative. In the intervening twenty-five years, the prices of the ordinary necessities of life had in many instances doubled, and even trebled. Sugar had gone up from twelve to twenty-five cents a pound; coffee from eighteen to thirty-seven; pork from nine to twenty; clerk hire, fixed in 1789 at \$500, had been raised to \$1,000, and the salaries of other Government officials had been similarly increased. The Secretary of State and the Secretary of the Treasury each received \$5,000 a year; the Secretary of War and the Secretary of the Navy, \$4,500 each; the Attorney-General, the Treasurer of the United States and the Auditor of the Treasury, \$3,000 each; the Comptroller of the Treasury, \$3,500; members of Congress, forced to neglect their business, leave their homes and incur the additional expenses of a temporary residence, were still paid only six dollars *per diem*. An increase in pay was both necessary and justifiable. But here we meet a phenomenon, quite frequent in business and political life, where the explanation and manner of committing an act are infinitely more reprehensible than the act itself.

Shortly before adjournment, in the summer of 1816, a bill was introduced by Richard M. Johnson, of Kentucky, providing an annual salary of \$1,500 for members of both Houses and double that amount for the Speaker of the House and the President *pro tem.* of the Senate. Further, if passed, the bill would be retroactive and date from the beginning of the session, March 4, 1815. The arsenal of debate was immediately raided for weapons, and the members rushed to the contest.

The partisans of the bill declared that the law would serve to shorten the session of Congress and provide a more equitable compensation for the members. On the other hand, it was denounced with hysterical emphasis. "Profligacy," "extravagance," "wanton waste," "criminal malfeasance," were the epithets applied to the measure by its detractors. Particularly the retroactive feature was assailed.

John Randolph, of Roanoke, approved the bill with the exception of the retroactive clause. He declared, however, "that it would not remedy the present glaring evils." Said he:

"Are not members obliged to be wakened up to vote: roused up to hear the question? Do they not keep the House from adjourning because they have not finished a letter or sent off the last newspaper? The Debates of the House are swelled to their great length by inattention of members: and to remedy it we must get rid of this book-binder's shop. The House is not exactly like a Dover Court where they are all speakers: but here there is one speaker and no listener."

He declared that he had no fear of voting for the bill from its effect upon his popularity. "For my part," he said, "I am not afraid of this thing called popularity: to vote myself \$1,500—for what? For coming here and living as in a boarding-school or a monastery."

He dismissed the argument that such a bill would serve to curtail debate with the declaration that, in his opinion, "they [speeches] are like old women's physic—they do neither good nor harm."

Huger, of South Carolina, quoted a formidable array of figures to prove that by frugal living, even under the old system, a member might still take home with him a comfortable surplus. He ridiculed a member from Massachusetts for keeping two dogs at his hotel, and declared that he could not agree with the venerable Mr. Wright, of Maryland, who insisted that Madeira was indispensable to the dignity of a gentleman who occupied a seat in Congress. "I have some doubts," said he, "whether the member who has made a late dinner or his supper with brown bread and a tumbler of genuine cider would not find himself, on the following morning, fully as adequate to perform the duties of a legislator as the one who has feasted sumptuously with the best white loaf, or enjoyed his bottle even of the deservedly far-famed old lath of Alexandria."

The bill was passed with its unsavory retroactive clause, although Randolph declared that he would as soon be caught with his hand in some other gentleman's pocket as in drawing any of the back pay. It was, further, rushed through with suspicious and unseemly haste. In the House it was introduced one day, read and considered the next, and passed the third. In the Senate postponement, commitment and amendment were all defeated.

The thunder-clouds of national indignation roared above. The storm broke. The whole nation seemed to tremble in the convulsive spasms of political hysteria. Every Congressman who

had voted for the bill was attacked with the venom of personal hatred. "Pirates," "looters of the Treasury," "thieves," "traitors to the people"—such were the epithets bandied about the country. Federalist and Democratic demagogues vied in the wild effort to be foremost and loudest in denouncing the "compensation men." The artillery of the press was opened upon them with withering broadsides. Grand juries of Vermont and Georgia returned presentments against the members who had voted for the nefarious bill, and demanded the election of a Congress pledged to its repeal. The people seemed all at once infected with the germ of madness.

"Private robbery and public plunder" was the favorite characterization; denunciation and retort, violence, abuse and clamor filled the whole country. Every prospective candidate for office, from constable to Congressman, stigmatized the law as wicked and corrupt, and gained votes by conspicuously placarding his sentiments in every available inn, tippling-house and stable. Whenever two men got together to exchange the compliments of the day, they first drew up a series of denunciatory resolutions. The turkey buzzard was suggested as a fit emblem to replace the national eagle. Even those who voted against the bill were assailed for accepting the tainted salary. A meeting of "patriots" on the 4th of July, 1816, presided over by one of the judges of the Supreme Court of Pennsylvania, drank, with enthusiasm, the toast—"The \$1,500 compensation law: the receiver is as bad as the thief." The popular outburst was an interesting and valuable historical contribution to the psychology of political caprice. The supporters of the bill were hung and burned in effigy by howling mobs, and then slated for political decapitation. Members of Congress felt that they were, indeed, "politically dead" and that the cards were out announcing the obsequies. Lively ghosts they determined to be.

Even Henry Clay, "our Harry," always nominated and elected by acclaim, was forced to conduct a spirited contest for reelection, and was rescued from the cataclysm only through his personal popularity. Others were less fortunate. Georgia returned but one of its former delegation to Washington; South Carolina, three out of nine; Maryland, four out of nine; Pennsylvania, thirteen out of twenty-three; Connecticut, but two out of seven. The entire delegations from Ohio, Delaware and Ver-

mont were relegated to private life. Nine members, disgusted with the popular clamor, resigned before the opening of the second session of this ill-fated Congress, and were superseded by men rancorous in their hostility to the compensation law. Both the popular rage and the punishment thus summarily inflicted were unreasonable and, like most exhibitions of popular anger, unfortunate. The Fourteenth Congress, thus ruthlessly destroyed, had been by far the most efficient of any as yet convened under the Constitution.

Congress had scarcely assembled for its second session in December, 1816, after the disastrous whirlwind of the fall election, when Johnson, the father of the ill-fated Act, introduced a bill for its repeal. The ensuing discussion strongly suggested "experience day" at a camp meeting. The unhappy members regaled each other with stories of their humiliation and defeat. The mercurial Randolph, one of the fallen majority, denounced the people for expecting Congressmen to "live like blackguards."

The Committee of the House prepared a lengthy defence of the Salary Act, but recommended, in view of the popular clamor, its repeal and the substitution of a *per diem* rate at a slight increase over the honored six dollars.

Randolph ridiculed this "auction of popularity," opposed the repeal and refused to offer such a "tub to the great Leviathan of popularity." He spurned the idea that "backwoodsmen of Kentucky were qualified to judge of the compensation necessary to support a gentleman genteelly in Washington, particularly if we can believe the story as to the luxuriant growth of the articles of that country 'that a cane stuck down to mark a hill of corn had been forgotten a few days and had itself produced two nubbins,' and where chickens, pigs and all kinds of poultry are said to grow spontaneously."

After a long debate, in which Randolph aroused considerable consternation by suggesting the refunding of all that the members had received above six dollars *per diem*, the Salary Act was repealed—the repeal to become effective from March 4th, 1817. The whole question was left as an unwelcome heritage to the Fifteenth Congress. Thus did the Reform Congress become the censurer of its own conduct and pass sentence of condemnation upon itself.

The salary provided by this pestilential act was manifestly

reasonable, although the time and method of its passage were equally unfortunate. The country was struggling under the burden of the unrepealed war taxes, and was in no mood to increase its load. In 1815 the collectors of the ports of Boston, New York, Philadelphia, Norfolk, New Orleans and Savannah received an annual salary of \$5,000 each. The Postmasters of Albany, Baltimore, Philadelphia and Boston received each \$2,000 a year. The Postmaster of Hartford received \$2,234 a year; of New Orleans, \$2,180; of Norfolk, \$2,007; of Pittsburg, \$2,118; of Richmond, \$2,648; and of Washington, \$5,207. The Governor of New York received \$7,000 and the Mayor of New York City \$7,500 a year.

By the act of January 22nd, 1818, members of Congress were voted a *per diem* of eight dollars, and an allowance of eight dollars as mileage for every twenty miles of the distance from their respective homes to Washington and return. The Speaker and President *pro tem.* of the Senate received sixteen dollars a day.

Warned by this prompt vengeance of an outraged public, Congress voted no further salary increase until 1856, although two or three sporadic attempts were made in the intervening forty years. In the mean time, the salaries of the prominent Federal officials had been augmented at various times. The salaries of the Associate-Justices had been raised to \$6,000, while the Chief Justice received \$6,500.

The cost and standard of living had materially increased, and the country at large was basking in the warm sunshine of material prosperity. Moreover, with the enlarged territory of the Union, the compensation law of 1818 had contrived to work serious inequalities, owing to the mileage clause, which provided an allowance of eight dollars for every twenty miles up to 1,250 miles, then six dollars for every twenty miles of the remaining distance from their respective homes to Washington and return. At a rough estimate, the gross income for a Senator or Representative from California was \$7,000 a year, while his confrère from Maryland or Virginia received \$1,500. The cost of travel was high, yet it was surely not so exorbitant as to warrant the rate of eighty or even sixty cents a mile.

Senator Weller, of California, frankly admitted, though with some embarrassment, that he was receiving \$5,400 as mileage.

Naturally the net income of Congressmen varied materially, and the members from the Far West were looked upon with ill-concealed envy.

In 1856 a bill was introduced in the Senate providing an annual salary of \$2,500 for the members of both Houses of Congress, and double that amount for the Speaker and President *pro tem.* of the Senate. No change in the mileage provision was suggested, and the act was to become effective only upon the adjournment of that session of Congress, so that the scandal of a retroactive clause might be avoided. After an acrimonious debate and much parading of figures, the House of Representatives amended the bill, making it retroactive, and increasing the salary to \$3,000 a year for the members and \$6,000 for the Speaker and President *pro tem.* of the Senate. In this form it was at length carried.

The newspapers denounced the "steal" suggested by the retroactive clause, and declared the increase to be wholly unwarranted. However, the nation was absorbed by the greater issues, then so near the frightful climax of blood and arms. But for a few isolated cases, there was no such visitation of condign punishment as had marked the enactment of the Salary Bill of 1816.

The "Salary Grab" of 1866 produced very little censure, despite the fact that it too was retroactive, that it was fraudulently coupled with another measure, and that it was railroaded through Congress with suspicious haste. This salary act increased the annual pay of Congressmen to \$5,000, but reduced the mileage to the more reasonable rate of twenty cents a mile by the nearest route.

The honorable members of that Congress "whistled in the graveyard," and for once the two hostile parties joined hands in ingeniously dividing the responsibility for the act, that neither might be held responsible—a very wholesome and salutary precaution. They concluded, after casting the political horoscope, that the increase would be soon forgotten in the fierce heat of sectional and reconstruction passion, or, at most, that it would be catalogued with the ordinary public and political scandals occasionally to be visited upon the masses. The leaders judged the public pulse correctly; for so indifferent were the people, despite the lurid maledictions of a hostile press, that the man-

agers of the "foray" were later heard to boast that only one member had scorned to pocket his share, and that his oversensitive conscience was rewarded by defeat for re-election.

In 1873, just before the adjournment of the Forty-second Congress, the most notorious of all of the "back-pay grabs" was enacted. The bill increased the salaries of the President of the United States to \$50,000, of the Chief Justice to \$10,500, of the Associate Justices and the Speaker of the House to \$10,000, and of the members of Congress to \$7,500. Although Congress lacked only a few days of its lawful dissolution, the bill was made retroactive, to take effect from March 4th, 1871. A veritable cyclone of indignation, similar to that of 1816, swept from the Atlantic to the Pacific. Each member of Congress, it was declared, had criminally robbed the country of \$5,000. One of the leading periodicals of the day, in denouncing the measure, declared that it would "hurt the reputation of Congressmen more than fifty things more nefarious." The act was in itself objectionable for several reasons, and it was passed in a very discreditable way—to say nothing of the scandal of making it retroactive. The Forty-second Congress was the last of what might be accurately termed the "War Congresses." They had been accustomed to appropriating and disbursing vast sums of money; the war taxes, many of them still in effect, provided a large national income. It was the period of large figures, of wild-cat speculation, of gross extravagance and wasteful expenditure. As one paper said, after Congress adjourned, "We may not have complete purity hereafter, but we shall have considerably less corruption."

One of the most conservative of the public prints declared editorially:

"Nothing which any Congress has done for many years has excited as much public indignation as the vote of the 'back pay' to themselves by the gentlemen of the Forty-second, who have just gone home. The obscurity of most of them will shield them hereafter, and will enable them to enjoy the money in peace. But the offence differs little, if at all, from that of a president of a bank who should raise his own salary in the middle of his year, pay himself out of the till, and then resign and set the directors at defiance. In fact, it is worse: because a bank president would know that he might be reached by the law, while Congressmen know they are safe against the only pursuit which for many of them has any terrors—that of criminal justice. We have a class of

'statesmen' on whom the opinion of the decent and moral elements of American society has absolutely no influence, and who revel in an unprecedented callousness."

The minority who voted against the act, and thought their moral obligation thus discharged, should be made to "understand that it is as disgraceful to take the money as to vote it."

When the Forty-third Congress met in December, 1873, so persistent had been the cry of "thief," the salary question was immediately discussed with a view of at once wiping away a stain and making a strong bid for personal popularity. General Butler, one of the leaders in the "raid" of the previous Congress, proposed that an act be passed authorizing suits at law for the recovery of the back pay thus received. However, this hysterical remedy was not adopted. A spirited debate marked the consideration of the act to repeal. The arguments smacked much of those employed on a similar occasion sixty years before—indeed, they suggested that the reports of Congress in 1817-18 had been studiously consulted. And again they assumed the form of autobiographical narration.

Judge Lawrence, of Ohio, although he had favored the "grab" of 1866 and had pocketed \$4,000 by virtue thereof, waxed eloquent in his vigorous denunciation of salary acts of any manner or description. The three great crimes of the age, he declared, were the Missouri Compromise, the firing on Fort Sumter and the Salary Act. The exposure of his previous record on this question, however, drew the fangs from his speech and made him an object of shamed embarrassment. The debate grew so bitter, and withal so personal, that one member objected to its continuance on the ground that the Constitution forbade "cruel and unusual punishments." Public sentiment, so manifestly hostile, was not to be ignored; and in January, 1874, the bill was repealed as of March 4th, 1873. However, the salaries of the President and Justices of the Supreme Court were retained at the figure fixed by that act.

Congressional salaries of \$5,000 a year remained stationary for a third of a century, not so much from a conviction of the justice of that figure as from a wholesome respect for popular sentiment. Shortly before the close of the last Congress a Salary Act was passed increasing the compensation of the Speaker of the House of Representatives, the Vice-President and the members of the Cabi-

net to \$12,000 per annum, and raising the salaries of Senators and members of the House to \$7,500. The conservative portion of the public and the less radical daily prints generally admitted the justice of this salary increase. Then, too, it was divorced from the disagreeable features of retroactiveness and partisanship which had inspired the particularly bitter condemnation of the Salary Acts of 1816 and 1873. Made effective for the ensuing Congress, beginning March 4, 1907, it was the first Congressional Salary Act in our history which did not increase the stipend of the enacting Congress.

Although a member of Congress receives only the stipulated \$7,500 a year as salary, his position carries with it certain perquisites which increase the total very considerably. For instance, every member has an annual allowance of \$1,500 for a clerk. Probably three-fourths of the members of the House, who have little correspondence, either carry members of their private families on the pay-roll, or appropriate to themselves the whole amount. One hundred and twenty-five dollars is voted each member as a "stationery allowance"; this is usually taken in cash. The mileage rate of twenty cents a mile also provides comfortable dividends—though the prohibition of Congressional railroad passes has diminished the size of this very comfortable "melon." However, many members from the Pacific coast draw as much as \$2,500 as mileage.

European statesmen and students of American political institutions frequently comment upon the economy, even niggardliness, practised by the Federal Government in the pay of its officials. An advance in the salary of the President and a moderate increase in the remuneration of other officials, particularly in the diplomatic and consular service, are on the "boards" for some not distant date. In this way, it is believed, recognized ability can be diverted from the profitable fields of individual enterprise to the honorable, though not very lucrative, channels of public service. A study in the comparative salaries of private corporations and certain municipalities and of the Federal Government would seem to furnish some justification for such a measure.

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